

S.D.N.Y. – N.Y.C.  
20-cv-7311  
Kaplan, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13<sup>th</sup> day of September, two thousand twenty-three.

Present:

Reena Raggi,  
Raymond J. Lohier, Jr.,  
Susan L. Carney,  
*Circuit Judges.*

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: Sep 13 2023
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E. Jean Carroll,

*Plaintiff-Counter-  
Defendant-Appellee,*

v.

23-1045, 23-1146

Donald J. Trump, in his personal capacity,

*Defendant-Counter-  
Claimant-Appellant.*

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Absent any objection from the parties, the appeals docketed under 23-1045 and 23-1146 will be consolidated seven days from the date of this order. Appellant moves for a stay pending appeal on both dockets. Appellee opposes.

The decision to grant a stay pending appeal is “an exercise of judicial discretion” requiring a balancing of four factors: (1) likely success on the merits, (2) irreparable harm, (3) the effect of a stay on the other parties, and (4) a determination of where the public interest lies. *Nken v. Holder*, 556 U.S. 418, 433–34 (2009). Upon due consideration of these factors, the parties’ submissions, and our own careful and independent review of the record, it is hereby ORDERED that Appellant’s motions for a stay pending appeal are DENIED.

Although we do not grant a stay pending appeal, it would be in the interest of the parties, as confirmed during oral argument, for the Court to resolve the issue of absolute presidential immunity as presented in the two appeals expeditiously. Moreover, the parties' extensive briefing thus far makes clear that they have already substantially developed their arguments on the merits of that and related issues. Accordingly, it is further ORDERED that these appeals be expedited. Appellant's brief on the merits will be due 15 days after the entry of this order; Appellee's response brief, 15 days after the filing of Appellant's brief on the merits; and Appellant's reply brief, if any, 5 days after the filing of Appellee's response brief. The appeals will be assigned to the first available panel to hear the cases on the merits.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

 

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

 